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August 3, 2006

HAND-DELIVERED

G. Bradley Richards, Chairman
Waste Management Council
C/o DES Legal Unit and Michael Sclafani
P.O. Box 95
29 Hazen Drive
Concord, NH 03302-0095

**Re: No. 05-09 WMC
REGENESIS CORPORATION**

Dear Chairman Richards:

Respectfully, and urgently, Regenesis requests that the Council act on the pending Motions for Rehearing at its upcoming meeting of August 17, 2006.

As Regenesis said in its letter to you of May 24, 2006:

As you know, the Council denied the appeal on February 23, 2006, after deliberations and discussion. Three months have passed since that denial, and 11 months have passed since the underlying decision.

Also as you know, Regenesis is seriously aggrieved by the underlying decision, strongly believes that it is incorrect as a matter of law, and wants to appeal it to the Supreme Court. But it cannot do so until: (1) the Council issues its decision in written form, as required by Env-WMC 205.15(a); (2) Regenesis thereafter files a motion for rehearing, as required by Env-WMC 205.16(a) and RSA 541:3; and (3) the Council, at its first scheduled hearing thereafter, either orders a hearing or denies the Motion. Env-WMC 205.16(d). Thus, even after the Council issues its decision in written form, there will be further delay before Regenesis can appeal to the Supreme Court.

As of the Council's upcoming meeting of August 17, 2006, almost 6 months will have passed since the Council's February 23, 2006 denial of Regenesis' appeal, and almost 14 months will have passed since the Hearing Officer's underlying decision.

Env-WMC 205:16(d) provides, "The Council shall, at its first scheduled

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meeting following the receipt of such a motion, order a hearing or dismiss the motion.” (Emphasis added.) Despite the rule’s mandatory language, that first meeting was cancelled because of a lack of a quorum. Regenesis respectfully requests that steps be taken to assure that a quorum is present for the August 17 meeting, the second “scheduled meeting following the receipt” of the motions for rehearing.

Regenesis further respectfully invites the Council’s attention to RSA 540:5, which provides, “Upon the filing of such motion for rehearing, the commission¹ shall within ten days either grant or deny the same....” (Emphasis added.) Despite the statute’s mandatory 10-day limit, the Council will have taken, as of August 17, 2006, 85 days to act.

Again, respectfully, and urgently, Regenesis requests that the Council act on the pending Motions for Rehearing at its next scheduled meeting on August 17, 2006. As Regenesis said in its June 23, 2006 Oppositions to the other parties’ Motions for Rehearing:

Regenesis will definitely appeal unless the Council grants its Motion for Rehearing in entirety; and Regenesis believes that other parties will appeal unless the Council grants their pending Motions. Hence, as a practical matter, regardless of how the Council rules, no final resolution will occur until the Supreme Court rules. It is time for this matter to proceed to the Supreme Court. [Emphasis added.]

Sincerely,

Edward A. Haffer

cc: Service List

¹ The reference to “commission” applies to the Council. See RSA 541:1 and RSA 21-O:14, III.

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